

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:21-00206
2:22-00063

ROBERT DALE EADY

MEMORANDUM OPINION AND ORDER

Pending before the court is the motion of defendant for a continuance of trial and guilty plea hearing. (ECF No. 44 in Case No. 2:21-00206 and ECF No. 4 in Case No. 2:22-00063.) In support of defendant's motion, counsel for defendant explains that he is scheduled to begin trial in another matter on April 5, 2022, in Beckley, which is expected to last two full days. He is also scheduled to begin another two-day trial on April 5, 2022, in Bluefield, which will either begin as scheduled or soon after the conclusion of the Beckley trial. Counsel requests a brief continuance. The government does not object.

Continuity of counsel is a permissible reason to continue trial and exclude time under the Speedy Trial Act, especially when a defendant does not object to a continuance. See 18 U.S.C. § 3161(h)(7)(B)(iv); United States v. Andrews, 365 F. App'x 480, 484 n.* (4th Cir. 2010). Here, defendant's trial and plea hearing are scheduled when defendant's counsel is expected to be in trial in one of two other cases expected to go to trial

the same week.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** defendant's motion to continue. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion "would unreasonably deny the defendant or the Government continuity of counsel." Id. § 3161(h)(7)(B)(iv).

Accordingly, the court hereby **ORDERS** as follows:


1. The plea hearing in Case No. 2:22-00063 is continued to **May 6, 2022, at 3:00 p.m.** in Charleston;
2. Trial in Case No. 2:21-00206 is continued to **May 9, 2022, at 9:30 a.m.** in Charleston; and
3. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States

Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 29th day of March, 2022.

ENTER:

A handwritten signature in dark ink, reading "David A. Faber", is written over a solid horizontal line.

David A. Faber

Senior United States District Judge